

REMARKS

Claims 26-44 are pending in the present application. The Office Action and cited references have been considered. Favorable reconsideration is respectfully requested.

The Examiner and his supervisor are thanked for the courtesies extended during the interview on June 23, 2011. The present response is submitted in accordance with the discussions during that interview. In particular, the independent claims have all been amended to recite that the distribution unit ***consists only of*** uniform communication devices using the minimal default broadband communication service (DABT). During the interview, this amendment was discussed, and the Examiner agreed that it would appear to define over the cited art, but that a further search would need to be done. Applicant is thus filing an RCE with this response.

Claims 26, 27, 35-38 and 44 were rejected under 35 U.S.C. §102(b) as being anticipated by Cutillo (U.S. Patent Application Publication No. 2006/0228113). Claims 28 and 29 were rejected under 35 U.S.C. §103 as being unpatentable over Cutillo in view of Czerwec (U.S. Patent No. 5,903,372). Claims 30-31 33, 39, and 40-43 were rejected under 35 U.S.C. §103 as being unpatentable over Cutillo in view of DeLangis (U.S. Patent Application Publication No. 2005/0078690). Claims 32 and 34 were rejected under 35 U.S.C. §103 as being unpatentable over Cutillo in view of DeLangis in view of Czerwec. These rejections are respectfully traversed for the following reasons.

The remarks submitted previously are incorporated herein by reference. Further, to advance prosecution, Applicant has amended the

independent claims to clarify the differences between Cutillo and the present invention. Specifically, in independent method Claim 26, the step of arranging the distribution unit is has been amended as follows:

in the distribution unit, arranging a second plurality of substantially uniform communication devices for serving the first plurality of subscribers, so said second plurality **consisting only of** uniform communication devices using the DABT,

Applicant has amended all of the independent claims 26, 30, 35, 39, and 44 of the patent application to claim **the use of *only* uniform communication devices implementing the DABT. Such an amendment restricts the main claims to the use of only uniform, DABT communication devices in the distribution unit**, regardless any individual service agreements of multiple subscribers connected to the distribution unit.

In view of this amendment, Applicant respectfully submits that Cutillo, and in particular Fig. 1 of Cutillo becomes irrelevant to the amended claims, since Cutillo's solution is now clearly positioned on the level of the prior art described by Applicant, where distribution units always comprise a variety of different communication devices having different technologies.

As discussed during the interview, the invention involves using a distribution unit having only the DABT devices installed therein. Then, each of the customers is connected to one of those devices, but they still receive only the level of service provided for in their service contract. Thus, if the customer then wants to upgrade to a higher level of service (or downgrade to a lower level), the provider need only flip a switch. It is unnecessary to send a service person to the site to change the equipment to which that customer is connected.

In Czerwiec, if the customer wants to upgrade, the provider looks around in the distribution unit for an unused piece of equipment that uses the better technology, and switches the customer to that equipment. However, that only has the possibility of avoiding the service call – if there is no unused equipment, a service call must be made.

Neither of the cited patents teach or suggest having a communication service distribution unit ***consisting only of*** uniform communication devices using advanced DABT technology for providing service to a plurality of subscribers irrespectively to their individual arrangements, more specifically – to the plurality of subscribers including so-called narrowband subscribers.

The Examiner asserted that “It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a distribution unit that contains only one type of advanced broadband technology, since it has been held that *omission of an element and its function in a combination where the remaining elements perform the same functions as before* involves only routine skills in the art (*In re Karlson*, 136 USPQ 184).” Applicant respectfully submits that this is not the situation provided for by Applicant’s invention.

Specifically, Applicant’s solution is not for “omitting” of something from any known solution. Cutilllo, in Fig. 1, shows different communication devices (ADSL modems 26 and VDSL modems 28) for different clients. Applicant does not proposed “to omit” ADSL or VDSL modem(s) connected to item 22 (which the Examiner considers as analogous to the claimed distribution unit). Were Applicant’s to “omit” any individual communication device from Cutillo's solution (Fig. 1), there would be no connection to a corresponding customer which was receiving service via that

individual communication device. While the remaining elements would perform the same functions as before, the omitted element would not be replaced with anything, since neither Cutillo nor Czerwiec speak about replacing "the omitted" individual communication device with another one (individual communication device) and definitely do not imagine replacing it with a device identical to those which remained. Moreover, (and that is important), the customer 24 which was previously served by the "omitted" element will NOT be able to perform the same functions as before.

Applicant's solution is for providing equal technological possibilities to different communication customers connected to a distribution unit, regardless of their present requirements/agreements, by providing for each of them an individual communication device with DABT being a minimal default technology for the distribution unit. In Applicant's solution, nothing is "omitted" from any known solution, but it constitutes a new concept for manufacturing and utilizing distribution units of communication services.

Further, dependent claim 27, where the DABT is the VDSL (Very High Digital Subscriber Line) technology, is new and inventive in view of Cutillo. Neither Cutillo, nor Czerwiec described/suggested use of an advanced technology as VDSL as a uniform technology for all communication devices in a distribution unit and regardless any individual service agreements of multiple subscribers connected to the distribution unit.

Applicant respectfully submits that the method of providing communication services to multiple subscribers claimed in the amended claim 26 (and of course in claim 27) is indeed new and non-obvious both over the cited prior art. The proposed solution provides advantages not found in the prior art, in that it is

simple, and has an immediate capability to serve both present and future telecom subscribers' needs.

Regarding claim 28, the Examiner admits that "Cutillo does not explicitly disclose a method wherein at least one of the subscribers is entitled to narrowband services only. However, Czerwiec discloses a method wherein at least one of the subscribers is entitled to narrowband services only (col.3, lines 11-13)." The Examiner concludes that it would be obvious to a one having ordinary skill in the art to combine Cutillo's and Czerwiec's solutions to arrive to Applicant's invention.

Applicant respectfully disagrees, since combining them would only mean that a narrowband subscriber of Czerwiec should be allowed to switch, say, from an ADSL module of Cutillo to a VDSL module of Cutillo provided that the VDSL module is free at the moment.

It can be seen in many references which were cited by the Examiner separately or in various combinations: none of them describes or suggests the concept of "let us build and use an advanced but uniform distribution unit for any clientele, without taking care who will consume which services." This never happens in the prior art. To arrive to Applicant's solution, one having ordinary skill in the art would have to invent the concept of a uniform distribution unit having individual "overkilling" DABT communication devices for any subscriber, even for the narrowband ones. Such a concept would seem to those of ordinary skill in the art as economically unjustified and wasting capacity of the distribution unit - and it was exactly the reality before the date of the invention (*i.e.*, this was not done – it would have been thought to be too expensive in upfront costs, and wasteful). Only with

impermissible hindsight reference to Applicant's disclosure would one of ordinary skill in the art have been motivated to make the claimed invention.

The proposed communication service distribution unit (Claim 35 amended in line with Claim 26) and the proposed system for providing broadband and narrowband services (Claim 44 amended accordingly) are also new and non-obvious over the prior art references for the same reasons.

Since Cutillo does not teach each of the claimed limitation set forth in the independent claims 26, 30, 35, 39, and 44, Cutillo does not anticipate the claims. For at least these reasons, Applicant respectfully submits that claims 26, 30, 35, 39, and 44 are patentable over the prior art of record. As discussed above, none of the other cited art remedies the deficiencies noted above with respect to Cutillo. Accordingly, claims 27-28, 31-32, 36-41 and 43, as well as claims 33 and 42, are believed to be patentable over the prior art of record in and of themselves and for the reasons discussed above with respect to claims 26, 30, 35, 39, and 44.

In view of the above amendment and remarks, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections of record. Applicant submits that the application is in condition for allowance and early notice to this effect is most earnestly solicited.

If the Examiner has any questions, he is invited to contact the undersigned at 202-628-5197.

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Respectfully submitted,

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